IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cri.Appeal No. 488 of 2000

Date of Decision: 3rd October, 2007

State of H.P.	Appellant
Versus	
Surjeet Singh	Respondent

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]? No.

For the appellant:	Mr.Ashok Chaudhary, Addl. Advocate General.
For the respondent:	Mr.R.K.Gautam, Sr. Advocate, with Mr.J.R.Poswal, Advocate.

Sanjay Karol, J. (Oral)

This appeal arises out of judgment dated 15th January, 2000 passed by the Additional Chief Judicial Magistrate, Arki, District Solan, HP in Case No.76/2 of 1998, titled as State of H.P. vs. Surjeet Singh, acquitting the accused of the charged offence under Sections 279 and 304-A, IPC.

The case of the prosecution is that in the night intervening 20th and 21st May, 1998 at about 1 a.m. while at Village Tukari the accused was rashly and negligently driving truck No.HP-11-0241 and it overturned and fell into the bushes at a distance of about 200 yards from the road. One of the passengers, Shri Ram Swarup died as result of the said accident. The accident was reported by Geeta Ram (PW-1) in terms of his complaint (Ext.PW-5/A). Based on the same FIR No.35/98 dated 21.5.1998 under Sections 279, 337, 304-A, IPC was registered at Police Station Arki

[1] Whether the reporters of Local Papers are allowed to see the Judgment?

(Ext.PW-5/B). The investigation was completed and challan was presented in the Court for trial. After complying with the provisions of Section 207, Cr.P.C., the accused was charged for an offence under Sections 279, 304-A, IPC. The accused did not plead guilty and claimed trial.

In all, prosecution examined seven witnesses and the statement of the accused under Section 313, Cr.P.C. was also recorded.

After examining the evidence as also the material on record, the Court below acquitted the accused for the reason that none of the witnesses were able to prove the case of the prosecution.

Out of seven witnesses, the prosecution has referred to and relied upon statement of Gita Ram (PW-1), Ram Lal (PW-2) and Rattan Singh (PW-3), independent witnesses, to prove the guilt of the accused and the other witnesses, namely, Om Parkash (PW-4), Brahmu Ram (PW-6), Sohan Lal (PW-5) and H.S.Rana (PW-7) are official in nature.

I have examined the evidence on record. Gita Ram (Pw-1) has admitted that the accident did not take place due to the fault of the accused nor had he witnessed the occurrence of the incident. His statement was recorded on the basis of what he had heard from certain people. Ram Lal (PW-2) has deposed that he had also heard that accused was driving the vehicle. He could not state as to whether the accident had taken place due to the fault of the accused. Rattan Singh (PW-3) after from being declared hostile has not supported the case of the prosecution.

Thus, from the deposition of all the witnesses it cannot be said that the prosecution has been able to prove its case that the accident had occurred due to rash and negligent driving of the accused. Simply because an accident took place resulting into the unfortunate death of Shri Ram Swarup in itself would not be sufficient enough to prove the fact that the accused was driving the vehicle in a rash and negligent manner.

The Court below has correctly appreciated the evidence on record and I see no reason to interfere with the conclusion arrived at. The appeal is accordingly dismissed. Bail bonds are discharged.

3rd October, 2007
(C)

(Sanjay Karol),
Judge